EXHIBIT F

Case 22-01257-JKS Doc 1-6 Filed 08/08/22 Entered 08/08/22 18:02:36 Desc Exhibit F Page 2 of 8

From: John Collins jcollins@nria.net>
Sent: Thursday, May 12, 2022 6:56 PM EDT
To: Gina Meola fmeola@nria.net>
CC: Art Scutaro <ascutaro@nria.net>

Subject: Re: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

I will check my social calendar and let you know tomorrow.

But I should be good.

Best JC

John E. Collins Jr.
EVP Business Development
D) 201-210-2727 C) 609-352-7421
jcollins@nria.net
www.nria.net
1 Harmon Plaza
9th Floor
Secaucus, NJ 07094

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From: Gina Meola <gmeola@nria.net>
Sent: Thursday, May 12, 2022 6:02:16 PM
To: John Collins <jcollins@nria.net>
Cc: Art Scutaro <ascutaro@nria.net>

Subject: FW: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

Hey John.

Does Monday at 12pm work for you for a call with Art & Edgar Stach?

Best regards,



Gina Meola

EA to EVP of Investor Relations National Realty Investment Advisors

♦ Office: (201) 210-2727 Ext. 208 | Fax: 800-349-0925

Email: gmeola@nria.net

NRIA.net

1 Harmon Plaza, Floor 9, Secaucus, NJ 07094

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From: Edgar Stach < Edgar. Stach@jefferson.edu>

Sent: Wednesday, May 11, 2022 4:39 PM **To:** Art Scutaro <ascutaro@nria.net>

Subject: Re: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

Art,

Can we set up a phone call for Monday May 16 between 8-12am? I need you feedback on the US construction questions. Perhaps you Assitant can reach out to me to set up the call.

Thank you. Edgar Edgar Stach Sent from my iPhone

On May 4, 2022, at 15:51, Edgar Stach < Edgar.Stach@jefferson.edu > wrote:

Art,

Please see replay from US Construction.

I have several questions for NRIA:

- When was the recorded finishing date and who inspected the property?
 I was not informed about the finishing walk through and date.
- 2. Do we have a valid power of attorney with NRIA in relation to the project?

I would appreciate your assistance in this matter. Now, US Construction wants \$4,124 from me!

Thank you

Edgar

Dr. Edgar Stach 26 Raynham Road Merion Station 19066, PA USA

C +1 865 405 8764 E Edgar.Stach@Jefferson.edu

From: dustin@usconstructioninc.com <dustin@usconstructioninc.com>

Date: Wednesday, May 4, 2022 at 15:45 **To:** Edgar Stach < <u>Edgar.Stach@jefferson.edu</u>>

Subject: RE: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid

construction cost

Mr. Stach:

Thank you for your patience while we've taken the time to review this issue. Based on our review, we maintain our position that no payment is due under the fast build guarantee or for the asserted overpayment. The guarantee is void for several reasons, including that U.S. Construction was under-, not over-, paid. Even if the guarantee was not void, the project was finished on time accounting for excusable delays.

First, the guarantee is void due to your failure to timely refinance the property. Under the guarantee, refinance had to occur within 60 days of finishing. (See Exhibit A). The guarantee defines the date of finishing as the earlier of the final appraisal date or final NRIA finishing inspection date. The final NRIA finishing inspection date was July 14, 2021. We note that the guarantee specifically discusses final detail punch work being completed after finishing, so the fact that work occurred after July 14, 2021 is not material. Therefore, you were required to refinance by September 12, 2021. (See Exhibit B). According to mortgage records on file with the City of Philadelphia Department of Records, the Hyperion Bank construction loan has not been discharged, and a second loan and mortgage were not issued until November 19, 2021, nearly two months past the deadline.

Second, U.S. Construction was not paid in full, and you took possession of the property before payment in full of the guarantee requires your full compliance with the construction contract, including timely payment of all sums due to U.S. Construction. U.S. Construction has only been paid \$433,200.00 for the project, \$4,125.00 less than the contract price. (See Exhibit C). Not only is that money due to U.S. Construction, your failure to pay it previously terminates the guarantee.

Relatedly, Section Seven of the construction contract is clear that your taking of possession prior to full payment eliminates all other obligations between you and U.S. Construction except your obligation to make payment and U.S. Construction's warranty obligations. Your taking of possession before final payment eliminates any obligation U.S. Construction had under the guarantee.

Third, the guarantee requires that you maintain a valid power of attorney with NRIA in relation to the project. Based on the documents in U.S. Construction's position, the apparent power of attorney provide by you to NRIA was not notarized, witnessed, or dated, making it invalid under Pennsylvania and New Jersey law. (See Exhibit D). The failure to maintain a valid power of attorney voids the guarantee.

Fourth, the guarantee requires you to comply with all terms off the NRIA Disclosures & Acknowledgment Agreement. You failed to comply with paragraphs 15, 18, and 28 of that agreement when you failed to timely refinance, failed to fully pay U.S. Construction, and failed to maintain a valid power of attorney. The failure to comply with the referenced agreement voids the guarantee.

Finally, even if the guarantee is valid, the project was timely completed as required. As we explained above, the project was finished on July 14, 2021. As you acknowledge, without any excusable delay, the project should have been finished on August 27, 2020, a gap of 321 days. Among other things, holidays, Sundays, weather days, and delays caused by Acts of God are excused under the guarantee for purposes of calculating the amount of delay. U.S. Construction has identified 319 weather days, Sundays, holidays, and City-mandated COVID-19 shut down days during the course of the project that cannot be counted towards delay. (See Exhibit E). Additionally, as a result of the ongoing COVID-19 pandemic, even when the project was not completely shut down, further delays were constant due to the inability to promptly obtain inspections from City personnel, delays in obtaining materials due to supplier shutdowns, and labor inefficiencies resulting from social distancing, quarantine, and cleaning protocols. In sum, there was no delay on this project that can be charged to U.S. Construction even in the guarantee is valid.

We ask that you issue U.S. Construction the balance due on the construction contract within thirty days of the date of this communication. We are available to discuss this matter further if you wish to do so.

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Dustin Salzano | Chief Financial Officer

US Construction, Inc. | 70 Hudson St. Suite 5A, Hoboken, NJ 07030

P: 215-291-9543 | E: dustin@usconstructioninc.com

Website: www.usconstructioninc.com

From: Edgar Stach < Edgar. Stach@jefferson.edu >

Sent: Monday, May 2, 2022 9:58 AM To: dustin@usconstructioninc.com

Subject: Re: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

I look forward to the conversation.

Edgar

From: dustin@usconstructioninc.com <dustin@usconstructioninc.com>

Date: Friday, April 29, 2022 at 16:57

To: Edgar Stach < Edgar. Stach@jefferson.edu >

Cc: Barbara Klinkhammer < Barbara.Klinkhammer@jefferson.edu >

Subject: RE: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid

construction cost

Hi Mr. Stach,

I will get back to you early next week on this.

Thanks,

Dustin

Dustin Salzano | Chief Financial Officer

US Construction, Inc. | 70 Hudson St. Suite 5A, Hoboken, NJ 07030

P: 215-291-9543 | E: dustin@usconstructioninc.com

Website: www.usconstructioninc.com

From: Edgar Stach < Edgar.Stach@jefferson.edu >

Sent: Thursday, April 28, 2022 4:13 PM

To: john@usconstructioninc.com; dustin@usconstructioninc.com Cc: Barbara Klinkhammer < Barbara.Klinkhammer@jefferson.edu >

Subject: Re: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

Mr. Farina, Mr. Salzano

- 1. The contract 'On Time Fast Build Guarantee US Construction', page number 5 pdf, was signed by John Farina, US Construction on 5/11/2019.
- 2. On page 6 pdf the construction cost was 437,325, signed by John Farina, US Construction on 5/11/2019. Actually drawn from the Hyperion Bank was \$440,744.50.

I hope I could clarify your mail. Please see the attached contract document.

I am awaiting your proposal to solve the dispute.

With regards

Edgar Stach

Dr. Edgar Stach 26 Raynham Road Merion Station 19066, PA

C +1 865 405 8764 E Edgar.Stach@Jefferson.edu From: dustin@usconstructioninc.com <dustin@usconstructioninc.com>

Date: Wednesday, April 27, 2022 at 18:49 **To:** Edgar Stach < <u>Edgar.Stach@jefferson.edu</u>>

Cc: Barbara Klinkhammer < Barbara.Klinkhammer@jefferson.edu >

Subject: RE: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid

construction cost

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Hello Mr. Stach,

I am in receipt of your email.

National Realty would be the financially responsible party for any payments you seeking related to a Fast Build Guarantee. Please reach out to them directly.

I will research regarding your inquiry on the overpaid contract amount and will get back to you. I am certain that was not the case but will investigate.

Best,

Dustin

Dustin Salzano | Chief Financial Officer

US Construction, Inc. | 70 Hudson St. Suite 5A, Hoboken, NJ 07030

P: 215-291-9543 | E: dustin@usconstructioninc.com

Website: www.usconstructioninc.com

From: Edgar Stach < Edgar.Stach@jefferson.edu > Sent: Wednesday, April 27, 2022 5:08 PM

To: dustin@usconstructioninc.com

Cc: john@usconstructioninc.com; Barbara Klinkhammer < Barbara.Klinkhammer@jefferson.edu>

Subject: Re: [External Email] 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

Mr. Salzano,

I spoke to your administrative assistant today in regards to my property on 320 Poplar Street in Philadelphia.

I would like to set up a phone call with you to discuss my claim against US Construction. I would appreciate you let me know when I can reach you.

I look forward to talk to you.

Thank you.

Dr. Edgar Stach 26 Raynham Road Merion Station 19066, PA USA

C +1 865 405 8764

E Edgar.Stach@Jefferson.edu

From: Edgar Stach < Edgar.Stach@jefferson.edu >

Date: Friday, April 22, 2022 at 15:32

To: dustin@usconstructioninc.com <dustin@usconstructioninc.com>

Cc: john@usconstructioninc.com <john@usconstructioninc.com>, Barbara Klinkhammer

<Barbara.Klinkhammer@jefferson.edu>

Subject: 320 Poplar Street, Philadelphia 19123, PA: Fast build penalty, overpaid construction cost

DUSTIN SALZANO Chief Financial Office 400 Market St. Suite Philadelphia, PA 19106

Mr Salzano

The communication is about my property 320 Poplar Street, Philadelphia 19123, PA

I seek compensation for US Construction for the extended construction time (fast build penalty) and overpaid construction cost

Per construction loan transaction history from Hyperion Bank, account 990060680 the first disbursement and the start of construction was on June 28.2019.

I did the first walk through and punch list with Glenn Peacock (general contractor) on October 20, 2021, 1PM-2PM. The punch-list contained

1. Several ceilings had cracks in the drywall (master bedroom, living room kitchen floor)

- Several doors and hand railings had to be repainted
 Outlets needed to be replaced or cleaned
- 4. The finished floor in the master bedroom and the stair landing on the second floor was damaged
- 5. The supply AC vent between the master bath and the bedroom below was connected without an air/sound or fire/smoke separation. This build was not up to code and needed to be changed before occupancy.

The unit was not ready for occupancy on October 20, 2021

The final walk through with Glenn Peacock was on November 22, 2021, 4PM-5PM.

Beside missing an escape gate (from the basement) at the back side of the house, the planter box in front of the house and corking the joint at the exterior brick venire, the house was finished and the punch-list fulfilled. I recorded therefor the finishing date for 320 Poplar Street on November 22,2021.

Per contract (fast build guarantee, penalty \$80/day) the construction duration was 14 month or agreed finishing date was 8.27.2020. Actual duration of construction was 29 months

Duration of construction: Start construction: 06.28.2019 Finishing date per contract: 08.27.2020 Actual finishing date: 11.22.2021

Days of construction past finishing date: Interest Hyperion Bank

8/2020 4 Days \$0.00 9/2020 30 Days \$2666.62 10/2020 31 Days \$2,638.24

11/2020 30 Days \$2.815.93 12/2020 31 Days \$2665.58 + Loan fee extension fee \$2,580.00 1/2021 31 Days \$2,901.54 2/2021 28 Days \$2,919.67 3/2021 31 Days \$2,937.31 4/2021 30 Days \$2,956.28 5/2021 31 Days \$2,974.75 6/2021 30 Days \$2,993.35 7/2021 31 Days \$3,012.06 8/2021 31 Days \$3,030.88 9/2021 30 Days \$3,078.67 10/2021 31 Days \$3,109,26

11/2021 22 Days \$3,134.43
Total Days between finishing date (contract) and actual finishing date: 452 Days (15 month)

Total amount interest and loan fees between 9/2020 - 11/2021: \$46,414.57

1. Fast build guarantee

Fast build guarantee and penalty per contract: \$80/day x 452 Days = \$36,160

Our accumulated financing cost for the construction loan with Hyperion Bank over the extended 15 month was \$46,414.57.

2. Over paid fixed construction cost
Per construction loan transaction history from Hyperion Bank, account 990060680 a total of 16 draws were made. The total of all draws was \$440,744.50. Per contract from 05,11,2019 and amendment (initials CTpn N.S.) the New Construction fixed price was \$437,325

We overpaid the construction fixed price by \$3,420.00

Our financial damage and overpaid construction

1. Fast build guarantee: \$36,160.00

2. Over paid fixed construction cost: \$3,420.00 Total damage and overpaid construction: \$39,580.00

We would like to ask US Construction to reimburse us in the amount of \$39,420.00 (fast build guarantee and overpaid

I am looking forward to receiving the reimbursement from US Construction in the amount of \$39,420 by Mai 10, 2022. With best regards.

Edgar Stach

Attachments:

- Signed contract: Stach / US Construction
 CPA Philly: Calculation past build penalty and overpaid construction
 Hyperion Bank Transaction History

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